

JUDGE OETKEN

14 CV 8499

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

H YOUNG (OPERATIONS) LIMITED

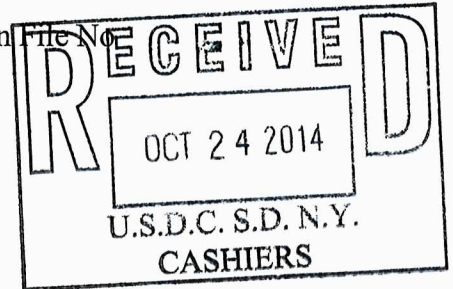
Plaintiff,

vs.

TARGET CORPORATION and STEVEN
MADDEN, LTD.

Defendants.

Civil Action File No.



COMPLAINT

Plaintiff H Young (Operations) Limited, by its undersigned attorneys, for its complaint against Defendants, alleges as follows:

PARTIES

1. Plaintiff H Young (Operations) Limited is a United Kingdom company having an address at Buckingham House, West Street, Newbury, Berkshire, RG14 1BD, United Kingdom ("HYO").
2. Upon information and belief, Defendant Target Corporation is a Minnesota corporation with an address at 1000 Nicollet Mall, Minneapolis, Minnesota 55403 ("Target").
3. Upon information and belief, Defendant Steven Madden, Ltd. is a Delaware corporation with an address at 52-16 Barnett Avenue, Long Island City, New York 11104 ("Madden"). Target and Madden are hereinafter collectively referred to as "Defendants."

JURISDICTION

4. The Court has jurisdiction over this action for copyright infringement under 28 U.S.C. §§1331 and 1338(a).

5. Defendants are subject to personal jurisdiction in this District because, upon information and belief, they are all located and doing business in this District and/or have all sold or offered to sell the infringing products at issue in this District.

6. Venue is proper under 28 U.S.C. §§ 1391(b) and 1400(a).

FACTS

HYO and the Copyrighted HYO Design

7. HYO owns and manages a portfolio of brands in a variety of industries, including the popular ANIMAL sports lifestyle brand based in the United Kingdom. HYO's ANIMAL Division not only designs its own goods, but also many of the original patterns and textile designs that appear on its products, such as apparel, luggage, and accessories.

8. In 2011, HYO created a fabric design known as the "Thrill Print" (the "HYO Design"), copies of which are attached as Exhibit A. The HYO Design is an original and creative work of authorship and constitutes copyrightable subject matter under the Copyright Act.

9. The HYO Design was created in-house by one of HYO's full-time design employees. As such, it is a work-for-hire owned exclusively by HYO.

10. The copyright in the HYO Design has been duly registered with the United States Copyright Office. A copy of Copyright Registration VA-1-860-420 reflecting HYO's ownership of the copyright in the HYO Design is attached hereto as Exhibit B. HYO's copyright in the HYO Design is valid and subsisting.

11. The HYO Design is comprised of rows of many different geometric shapes and patterns, selected, positioned, and arranged in a unique and original way. One idiosyncratic detail of the HYO Design is that it incorporates into one single element of its complex pattern a rendition of one of a number of logo designs the ANIMAL brand uses for its products, as shown below:



HYO uses this lone detail both as a brand identifier and as a marker to identify potential infringements where the copying is so scrupulous as to appropriate even this lone element.

12. Products bearing the HYO have been distributed internationally and have been readily available in many markets. Those products include various handbags, tops, jackets, t-shirts, dresses and belts, sample images of which are attached as Exhibit C.

Defendants' Infringing Activities

13. HYO has recently learned that Target has advertised, promoted, and sold at least two differently-styled bags under the MOSSIMO name bearing a fabric design copied from and strikingly similar to the HYO Design (the "Infringing Products"). These two infringing bags, juxtaposed to the HYO Design from which they copy, appear below:

Infringing Products

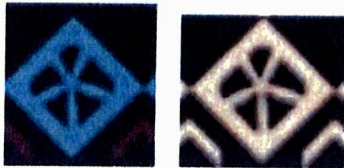


HYO Design



14. Notably, the first of the Infringing Products (appearing in blue above) even goes so far as to copy the five-petaled ANIMAL logo appearing one time in the HYO Design, as depicted below.

HYO Flower Logo



Infringing Products Detail



15. Upon information and belief, Madden supplied the first of the two Infringing Products (appearing in blue above) to Target for resale under Target's MOSSIMO line. HYO has not yet determined Target's supplier for the second of the Infringing Products.

16. The Infringing Products bear designs that are virtually identical, strikingly similar replicas of the HYO Design. Indeed, it is not plausible that Target, Madden or any supplier from whom they might have sourced the Infringing Products or patterns appearing thereon, could have arrived at these infringing designs without reference to the HYO Design.

17. The fact that even the single ANIMAL logo was replicated is damning proof that these designs were copied from the HYO Design.

18. Upon information and belief, Defendants and/or their suppliers for the Infringing Products had access to and copied the HYO Design. Moreover, the striking similarity between the designs on the Infringing Products and the HYO Design make any source other than copying not reasonably possible.

CLAIM FOR RELIEF – COPYRIGHT INFRINGEMENT

19. HYO repeats and realleges the allegations set forth in paragraphs 1-18 of the Complaint with the same force and effect as if set forth fully herein and incorporates such allegations by reference herein.

20. By virtue of the conduct as described above, Defendants have infringed HYO's exclusive copyright rights in the HYO Design under the Copyright Act.

21. By the acts complained of, Defendants have made profits and gains to which they are not in law or equity entitled.

22. The infringements of HYO's copyright rights in the HYO Design have damaged and will continue to damage HYO and cause it irreparable harm. HYO has no adequate remedy at law.

REQUEST FOR RELIEF

WHEREFORE, HYO demands judgment as follows:

A. Ordering that Defendants, their agents, officers, servants, employees, successors and/or assigns, and all persons or companies in active concert and/or participation with them, be permanently enjoined from reproducing, making, reprinting, publishing, displaying, manufacturing, selling, offering for sale, promoting, advertising, distributing and/or commercially exploiting in any manner, either directly or indirectly, any products on which are imprinted or which display unauthorized copies of the HYO Design or any designs substantially similar thereto, including without limitation the Infringing Products;

B. Awarding HYO all damages suffered by HYO as a result of Defendants' infringing acts, and all profits derived from Defendants' infringing acts in an amount to be

determined at the trial of this action; or in lieu of such damages and profits, should HYO so elect, an award of statutory damages, as provided by 17 U.S.C. §504(c);

C. Ordering that Defendants deliver to HYO for destruction all products, designs, brochures, catalogues, means of manufacture and/or other materials in Defendant's possession or control, which, if sold, distributed or used in any way would violate paragraph A above; and

D. Awarding HYO attorneys' fees, costs and disbursements in this action;

E. Awarding HYO prejudgment and post-judgment interest.

F. For such other and further relief as the Court may deem just and proper.

Dated: New York, New York
October 23, 2014

COWAN, LIEBOWITZ & LATMAN, P.C.

By: 

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1133 Avenue of the Americas
New York, New York 10036-6799
(212) 790-9200

Attorneys for Plaintiff
H Young (Operations) Limited

EXHIBIT A



EXHIBIT B

Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Maria A. Pallante

Register of Copyrights, United States of America

Registration Number
VA 1-860-420

Effective date of
registration:
March 1, 2013

Title

Title of Work: THRILL (Fabric Print)

Completion/Publication

Year of Completion: 2011

Date of 1st Publication: July 31, 2012

Nation of 1st Publication: United Kingdom

Author

■ Author: H. Young (Operations) Limited

Author Created: 2-D artwork

Work made for hire: Yes

Citizen of: United Kingdom

Domiciled in: United Kingdom

Copyright claimant

Copyright Claimant: H. Young (Operations) Limited

Buckingham House, West Street, Newbury, Berkshire, RG14 1BD, United Kingdom

Rights and Permissions

Organization Name: Kenyon & Kenyon LLP

Name: Michelle Mancino Marsh

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Address: One Broadway

New York, NY 10004 United States

Certification

Name: Michelle Mancino Marsh, Esq.

Date: March 1, 2013

Applicant's Tracking Number: 15835/____

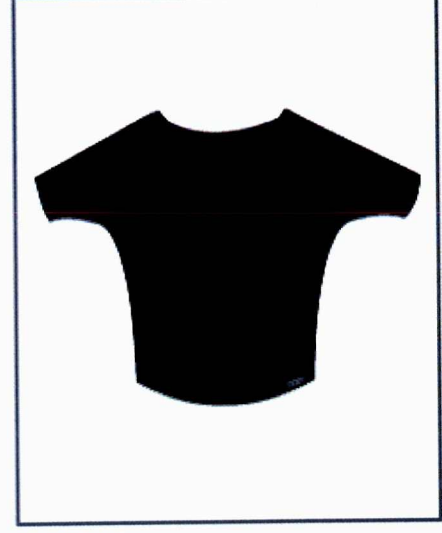
EXHIBIT C



ANEIRA
CL2WA825 -Technical Jacket.



ANEW
CL2WA421 -Deluxe Tee.



MORALE
CL2WA442 -Devorè Fashion Tee.



THRILL
CL2WA447 -Woven Top.



LIBERATE
CL2WA498 -Dress.



BLESSING
CL2WA525 -Parka Jacket.



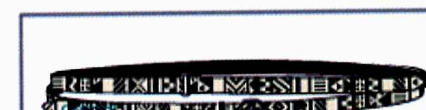
ELSIE
LU2WA720 -Underarm bag.



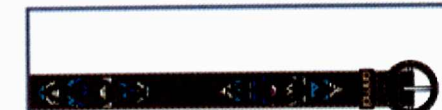
ELISSA
LU2WA721 -Medium x Body.



TESSIE2
LU2WA722 -Small x Body.



ROSALIE
BT2WA025 -PU Skinny Belt.



BRENNA
BT2WA024 -PU Belt.